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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,797	03/26/2004	Chikara Ohki	70456-025	7147
20277 7590 11/29/2007 MCDERMOTT WILL & EMERY LLP 600 13TH STREET, N.W. WASHINGTON, DC 20005-3096			EXAMINER CHARLES, MARCUS	
			ART UNIT 3682	PAPER NUMBER
			MAIL DATE 11/29/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/809,797

Applicant(s)

OHKI ET AL.

Examiner

Marcus Charles

Art Unit

3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This action is responsive to the submission filed 9-27-2007, which has been entered.

Claims 1-24 are currently pending.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawashima et al. (4,867,649) in view of JP (61-177327) to Ono et al. Kawashima et al. disclose the claimed invention, including a compressor component (25) incorporated into a compressor having a compressor body (28) and a pulley mechanism (not labeled). Kawashima et al. fail to disclose the component having an austenite grain with a grain size number failing within a range exceeding 10. JP (61-177327) to Ono et al. discloses an austenitic stainless steel having a austenite grain size of 11 to improve superior characteristic such operating under high temperatures. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the component of Kawashima et al. so that it is made of an austenite material having an austenite grain size of 11 in view of JP (61-177327) in order to increase fatigue life, increase anti crack strength and increase life at high temperature. In addition, Kawashima et al. fails to disclose the component having a fracture value of at least 2650 MPa and a fracture of at most 0.5ppm. There is reasons to believe, base on the

similarity of (structure etc.) that the functional limitation (s) of the fracture value being 2650 MPa and the hydrogen content of 0.5 ppm restricted is (an) inherent characteristic (s) of (the prior art). In re accordance with In re Best, 562F.2d 1252, 195 USPQ 430, 433 (CCPA 1977).

This "burden of rebutting [may be of] the PTO's reasonable assertion of inherency under 35 USC 102, or of prima facie obviousness under 35 USC 103" (195 USPQ at 432).

Accordingly, the burden is placed upon the applicant to prove that the limitation (s) in question is/are not (an) inherent characteristic (s) of the reference disclosure.

In claims 5, 12-13 and 19, note the swash plate (12) support bearing (25) supporting the swash-plate.

In claim 6, 15 and 20, note the bearing (25) is a needle roller thrust bearing.

In claims 7-8 and 14, note the pulley support bearing (95/47) which is needle bearing.

In claims 9-10), note the bearing (95/47) is a shaft support bearing.

In claims 16-17, the claimed invention is disclosed above.

In claims 18-24, Kawashima et al. (4,867,649) in view of JP (61-177327) to Ono et al. clearly disclose the claim invention above.

Citation


3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note the prior art cited in attached PTO Form 892.

Response to Arguments

4. Applicant's arguments, filed 8-27-2007, with respect to the rejection(s) of claim(s) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of JP (61-177327) to Ono et al. set forth above.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus Charles whose telephone number is (571) 272-7101. The examiner can normally be reached on Monday-Thursday 7:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ridley Richard can be reached on (571) 272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Marcus Charles
Primary Examiner
Art Unit 3682
November 23, 2007